

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	Facility ID No. 33543
KATV, LLC)	NAL/Acct. No. 0741420028
)	FRN: 0001694462
)	
Licensee of Station KATV(TV))	
Little Rock, Arkansas)	

FORFEITURE ORDER

Adopted: March 30, 2010

Released: April 9, 2010

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (“Order”), we issue a monetary forfeiture in the amount of eight thousand dollars (\$8,000), to KATV, LLC (“KATV”), licensee of Station KATV(TV), Little Rock, Arkansas (“Station”), for its willful and repeated violation of Section 73.670 of the Commission’s Rules (“Rules”)¹ by failing to comply with the limits on commercial matter in children’s programming.

II. BACKGROUND

2. On January 31, 2005, the KATV filed the license renewal application (FCC Form 303-S) for Station KATV(TV), File No. BRCT-20050131ALH (the “Application”). In response to Section IV, Question 5 of the Application, KATV stated that, during the previous license term, it failed to comply with the limitations on commercial matter in children’s programming specified in Section 73.670 of the Commission’s Rules. In Exhibit 19, the Licensee indicated that the Station violated the children’s television commercial limits and policies on two occasions. KATV stated that on February 27, 1999, the Station aired two commercials for the theatrical release, *Doug*, during the program “*Doug*.” KATV attributed these incidents to inadvertence and described the Station’s new procedures to prevent similar errors from occurring in the future.

3. On May 7, 2007, the Bureau issued a Notice of Apparent Liability for Forfeiture (“NAL”) in the amount of eight thousand dollars (\$8,000) to KATV for its violation.² On May 31, 2007, in response to the NAL, KATV filed an Opposition To Notice of Apparent Liability for Forfeiture (“Opposition”). Therein, KATV states that “the two commercials were aired inadvertently in a single program due to a late-noticed commercial insertion order by the ABC network, bypassing the stations’ established procedures to prevent the inclusion of program characters in commercial advertising.” It claims that it immediately realized the significance of missing the network notice and expeditiously implemented new procedures to ensure compliance with the Commission’s rules. KATV further states that the commercials in question involved a single isolated program that was the only incident of its kind during the station’s entire eight-year license term. It maintains that the Commission should rescind the NAL in its entirety as

¹ 47 C.F.R. § 73.670.

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 0741420028, DA 07-1988 (MB, rel. May 7, 2007).

arbitrary and capricious. KATV asserts that under virtually identical circumstances in the past, the Commission determined that an admonition, rather than a monetary forfeiture, for an isolated incident relating to children's television commercial limits. Specifically, it notes that in October 2004, the Media Bureau admonished Fox Television Stations, Inc., for commercial overages on station WDCA(TV), Washington, D.C., which were acknowledged in the station's renewal application.³ KATV therefore argues that the Bureau "was required to make a similar finding" and refrain from issuing a forfeiture. It maintains that Bureau's failure to reconcile these two cases is arbitrary and capricious, and requires the Commission to rescind the NAL in its entirety.

III. DISCUSSION

4. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act,⁴ Section 1.80 of the Rules,⁵ and the Commission's *Forfeiture Policy Statement*.⁶ In assessing forfeitures, Section 503(b)(2)(D) of the Act requires that we take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.⁷

5. KATV does not dispute that the Station violated the children's television commercial limits, but argues that its forfeiture should be rescinded in light of a past Commission decision in a case with similar circumstances. We have considered KATV's request in light of the above statutory factors, our Rules, and the *Forfeiture Policy Statement*. We affirm the finding that KATV willfully and repeatedly violated Section 73.670 of the Rules. We do not agree with KATV, however, that our disposition of the WDCA matter compels an identical sanction in this case. Since that earlier 2004 decision, broadcasters have had significantly more time to hone their plans and practices to ensure compliance with our commercial limits rules. Moreover, the forfeiture amount proposed in the NAL is consistent with more recent NALs issued to other licensees who also reported two program length commercials.⁸

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the Commission's Rules,⁹ that KATV, LLC, SHALL FORFEIT to the United States the sum of \$8,000 for willfully and repeatedly violating Section 73.670 of the Commission's Rules.

7. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's Rules within 30 days of the release of this Forfeiture Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant

³ Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau, to Fox Television Stations, Inc., Licensee, Station WDCA, DA 04-3456 (MB, rel. Oct. 29, 2004).

⁴ 47 U.S.C. § 503(b).

⁵ 47 C.F.R. § 1.80.

⁶ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999). ("Forfeiture Policy Statement").

⁷ 47 U.S.C. § 503(b)(2)(D).

⁸ See, e.g., *Fox Television Stations, Inc. (KUTP(TV))*, 22 FCC Rcd 16615 (MB 2007); *Meredith Corporation (KPDXTV)*, 22 FCC Rcd 18839 (MB 2007).

⁹ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.283, 1.80.

to Section 504(a) of the Act.¹⁰ Payment of the proposed forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced in the caption above. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank—Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank: TREAS NYC, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code).

8. The Licensee’s request for full payment of the forfeiture under an installment plan should be sent to: Associate Managing Director – Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹¹

9. IT IS FURTHER ORDERED, that a copy of this Forfeiture Order shall be sent by Certified Mail Return Receipt Requested and by First Class Mail, to KATV, LLC, 401 Main Street, Little Rock, Arkansas 72201, and to its counsel, Jerald N. Fritz, Esquire, Allbritton Communications Company, 1000 Wilson Boulevard, Suite 2700, Arlington, Virginia 22209-3921.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁰ 47 U.S.C. § 504(a).

¹¹ See 47 C.F.R. § 1.1914.